

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

PAULETTE B. MARSHALL

PLAINTIFF

VERSUS

CIVIL ACTION NO. 5:05cv44-DCB-MTP

JO ANNE B. BARNHART,
COMMISSIONER OF SOCIAL
SECURITY ADMINISTRATION

DEFENDANT

ORDER

This cause is before the Court on Magistrate Judge Michael T. Parker's Report and Recommendation [**docket entry no. 17**]. The Court finds and orders as follows:

On April 5, 2005, Paulette B. Marshall filed this action seeking judicial review of the Commissioner's decision denying her claim to social security benefits, 42 U.S.C. § 405(g). On July 27, 2006, the Commissioner filed a Motion to Dismiss for Failure to Prosecute [**docket entry no. 14**]. The Commissioner's motion sought dismissal due to the plaintiff's failure to file a dispositive motion and memorandum as required by the Standing Order pertaining to social security cases. Standing Order, August 28, 1991 (stating that "within 30 days from the filing of the defendant's answer, the plaintiff shall serve and file an appropriate dispositive motion . . . and a brief setting forth all errors and legal authorities which plaintiff contends entitle [her] to relief.")

Judge Parker issued an Order to Show Cause [**docket entry no. 16**], wherein he ordered the plaintiff to respond to the

Commissioner's Motion to Dismiss. Judge Parker warned that failure to respond could result in dismissal of the plaintiff's complaint. Marshall did not respond to the Court's Order to Show Cause. Nevertheless, on January 12, 2007, Judge Parker entered a report and recommendation ("R&R") [docket entry no. 17], and in his R&R, Judge Parker recommended denying the defendant's Motion to Dismiss. The R&R also ordered the plaintiff to comply with the Standing Order within thirty days or face dismissal of her suit. Over thirty days have now passed since the plaintiff received notice of the R&R [docket entry no. 19 (certified mail receipt indicating delivery of R&R on January 17, 2007)], and the plaintiff has yet to file her dispositive motion. Accordingly,

IT IS HEREBY ORDERED that the plaintiff's action be **DISMISSED WITH PREJUDICE**.

A separate final judgment will be entered herein in accordance with this Order and as required by Rule 58 of the Federal Rules of Civil Procedure.

SO ORDERED, this the 28th day of February, 2007.

s/David Bramlette
UNITED STATES DISTRICT JUDGE